

**Statutory Declaration**  
*OATHS ACT 1900, NSW, NINTH SCHEDULE*

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I, Tim Anderson, 

do hereby solemnly declare and affirm that

This is a complaint against Federal Court Justice Michael Lee who, because of his public partisan, declarations in support of the Israeli regime, (1) should have declared his personal interest and declined to sit, or at least have informed the parties and allowed us an opportunity to object to him sitting, in NTEU and Anderson vs. University of Sydney (NTEU vs. USyd), a case involving 'intellectual freedom' where a key contention was my criticism of the Israeli regime and, through this deep bias, (2) has revealed himself unfit to be a judge of law.

**NTEU vs USyd: Case Summary**

In NTEU vs USyd, in summary, the universities' union and I appealed to the Federal Court of Australia my dismissal as an academic at the University of Sydney (USyd), while USyd managers argued that I had made "offensive" comments which breached the code of conduct. They asserted that there was no actual "right" to intellectual freedom, despite inclusion of this phrase in the enterprise agreement. After an initial ruling for the managers by Justice Tom Thawley, a first full bench on appeal (comprising Justices Jagot, Rangiah and Allsop) unanimously overturned that ruling, finding that the enterprise agreement did indeed establish "a right to intellectual freedom". FCA 2021, Jagot, Rangiah and Allsop, <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2021/159.html>

Justices Jagot and Rangiah considered my most contentious graphic comment, which USyd managers claimed was "offensive" (albeit linked to a research article 'The Future of Palestine'), suggesting parallels between the Gaza massacre of 2014 and those of Nazi German regime. The judges said my graphic was:

"including Israel within a long history of colonial exploitation by one political entity over another weaker entity or people. It does not matter whether this comparison may be considered by some or many people to be offensive or wrong ... offence and insensitivity cannot be relevant criteria for deciding if conduct does or does not constitute the exercise of the right of [lawful academic] intellectual freedom."

The full bench directed Justice Thawley to reconsider the matter, based on those legal clarifications. Justice Thawley subsequently agreed that no part of my Gaza graphic should be taken "out of context". It was created "for an academic purpose" and was not intended "to incite hatred of Jewish people". He further found university managers "did not establish any breach of standard" under university rules.

Thawley J affirmed that my employment was terminated because "he exercised his right to intellectual freedom". In doing so the University contravened its duty under cl.315 of the 2018 Enterprise Agreement and under s.50 the Fair Work Act. He subsequently ordered my reinstatement, with back pay.

USyd managers then appealed this ruling to a second full bench (comprising Justices Perram, Lee and Kennett). Justices Perram and Lee eventually agreed with a follow up argument put to them by



counsel for USyd managers (but not fully put at trial) that, despite there being no “breach of standard”, I had failed to prove (on a reverse onus) that my exercise of intellectual freedom was consistent with “the highest ethical, professional, and legal standards”.

FCA 2024, Perram, Lee and Kennett [https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2024/57.html?context=1;query=National%20Tertiary%20Education%20Industry%20Union%20v%20University%20of%20Sydney;mask\\_path=au/cases/cth/FCAFC](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2024/57.html?context=1;query=National%20Tertiary%20Education%20Industry%20Union%20v%20University%20of%20Sydney;mask_path=au/cases/cth/FCAFC)

Justice Perram said, “I cannot be satisfied that Dr Anderson’s comments met the highest ethical, professional, and legal standards. This of course does not entail a positive finding that Dr Anderson’s comments did not meet those standards. Rather, given the paucity of evidence on this topic from at least the Union parties, I am unable to determine the issue one way or the other”. Justice Kennett disagreed, rejecting the argument that my comments were not “responsible” exercises of intellectual freedom. He added that “exercises of the [intellectual] freedom cannot form any part of the foundation for a discretionary decision to terminate employment or impose any other form of disciplinary action”.

However Justice Lee more or less agreed with Justice Perram, effectively providing the casting vote in a case where 5 of 7 FCA judges had ruled in our favour. Lee J said “I am unable to see how [some of Anderson’s social media comments] could be characterised as being responsible and consistent with the highest ethical, professional and legal standards.”

Neither Justice Lee nor Justice Perram made any reference to my research article ‘The Future of Palestine’, linked to a re-post of my Gaza Graphic, which discussed the parallels between Nazi and Zionist racial ideology and racial massacres. Nor did they spell out any particular criteria for this “highest standards” burden.

Given the arbitrary character of this ruling on “highest standards”, I was shocked to find, after that judgement, that Michael Lee was far from an impartial or disinterested judge, given the subject matter of the case. Although the consideration period of the second full bench coincided with many months of virtually live streamed images of Israeli slaughter in Gaza, it emerged that Michel Lee had a strong and partisan sensitivity to matters concerning Israel.

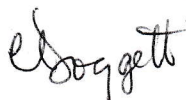

### **Michael Lee’s partisan advocacy**

Michael Lee comes from a Catholic family and married into a Jewish family. His two children are considered Jewish. Last year, quoting his wife’s late grandfather who said, “I shall treat any attack on the Jews as an attack upon my wife and my children,” Lee added that, while he was not Jewish, “I can say I feel exactly the same way.” By “any attack on the Jews” and by his reference to an alleged wave of “antisemitism” of the previous 13 months, it was clear he was talking about the outraged public reaction to the Israeli slaughter of Palestinian civilians in Gaza, over that same time period. He seems to have an adopted tribal loyalty which underlies these partisan views.

(Sky News Australia, 21 November 2024, Leadership is needed on antisemitism: Justice Michael Lee, online: <https://www.youtube.com/watch?v=0BYbEuUVRO8>)

The principle that “a man may not be a judge in his own cause” was set out in the House of Lords decision in *Re Pinochet* (1999), where Lord Hoffman had not disclosed his links to Amnesty International, which had become a party to the case. Reaffirmed from other cases was the question of whether there could be “a reasonable apprehension or suspicion on the part of a fair-minded and informed member of the public that the judge was not impartial”.

(House of Lords, 15 January 1999, Judgment - In *Re Pinochet*’, online: <https://publications.parliament.uk/pa/ld199899/ldjudgmt/jd990115/pino01.htm> )



In NTEU vs. USyd the state of Israel was not party to the case but, as we now know, Justice Michael Lee has made the defence of Israel a "personal" mission. I therefore suggest that there must be a strong suspicion that Michael Lee was not impartial on the 'offensiveness' or otherwise (e.g. "highest standards") of comments made by me that were critical of the state of Israel. He must have been aware beforehand of the Israeli linked content of this case and should have declared his bias, or allowed counsel for the NTEU and myself to object. Was he really unaware of his personal bias or was he using his position as a judge to advance his personal commitment to Israeli advocacy in a court of law? Neither action looks proper.

In late 2024 Michael Lee spoke at an 'anti-Semitism summit', which was convened to address an alleged threat within Australia, in context of public reaction at the 2023-2024 slaughter in Gaza. Michael Lee exposed his prejudice in what one newspaper correctly called "stunningly personal comments", claiming that an alleged "wave of anti-Semitic incidents in Sydney" amounted to an "attack on my wife and children".

(Daily Mail, 22 November 2024, 'Powerful moment Federal Court Justice Michael Lee ... makes stunningly personal comments', online:

<https://www.dailymail.co.uk/news/article-14109749/Justice-Michael-Lee-anti-Semitism.html>)

(The Australian, 22 November 2024, 'Anti-Semitism 'an attack on my wife and children' judge Michael Lee', <https://www.youtube.com/watch?v=iWLIO-4qOdw>)

I note in passing that Police Strike Force Pearl, tasked with investigating those domestic incidents, reported that most were not ideologically motivated. None of the people arrested under Strike Force Pearl displayed "any form of anti-Semitic ideology", NSW Police Deputy Commissioner David Hudson said, adding that the incidents were instead being "orchestrated by an organised crime element and conducted to further their own causes".

(Canberra Times, 10 March 2025, Cops expose Jewish caravan plot as 'criminal con job', online: <https://www.canberratimes.com.au/story/8913021/cops-expose-jewish-caravan-plot-as-criminal-con-job/>)

Michael Lee expressed contempt for students and young people protesting what the International Court of Justice has agreed was a plausible crime of genocide. The International Criminal Court has also issued arrest warrants for Israeli leaders (and three Palestinian leaders, all now deceased). Apart from those provisional decisions in 2024, the ICJ also ruled as illegal Israel's occupation of the "Palestinian territories" (implicitly noting the Israeli theft or annexation of Palestinian land). (International Court of Justice, 19 July 2024, 'Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem', <https://www.icj-cij.org/case/186>)

Referring to the anti-Israel demonstrations across Australia Michael Lee publicly complained that "some people we thought we knew" did not understand, or did not want to understand, "a more complex narrative than that presented by simplistic and historically flawed declamations".

(The Australian, 22 November 2024, 'Justice Lee on Australia's anti-Semitic behaviour' <https://www.youtube.com/watch?v=DScy9gC-JdM>)

That "complexity" did not seem to include the open and official slaughter of women and children plus the public Israeli justifications for those crimes. He said nothing about this, despite provisional decisions by the ICJ and the ICC throughout 2024.

A remarkable aspect of Michael Lee's public declarations about anti-Semitism is that he set out in his speech to analyse the cause of an alleged recent increase in anti-Semitic behaviour in Australia through an examination of the Australian school and university system, but without any consideration of the behaviour of the state of Israel which, to any reasonable mind, must have had a



major impact on the resurgence of anti-Semitism. This reveals an astonishingly distorted and one-eyed view of the issue. The quest for a cause is not the quest for a justification. Even the most appalling behaviour of the Israeli regime is no justification for real anti-Semitism, but it must occupy centre stage as a causal factor.

Michael Lee's approach to examining the phenomenon could not be anything other than wilful blindness, and reveals a deeply entrenched partisan attitude. His behaviour in relation to this issue raises the more fundamental question of his fitness to be a judge.

### **Non-Trivial Bias and Wilful Blindness**

I do not want to detail here the great crimes in Palestine but, so as to emphasise that the bias complained of is not trivial, allow me to point out that:

1. Israeli leaders have not only practiced but also justified starving the entire population of Gaza (one of the counts before the ICJ and ICC), and also of killing children.
2. The United Nations and many independent witnesses have observed that the Israeli military has been deliberately targeting children and wiping out entire families;
3. The United Nations has reported that the number of children killed in Gaza in four months was higher than those from four full years of world conflict;
4. Even the Israeli newspaper Haaretz has asked how Israelis can remain "indifferent" to the slaughter of thousands of children in Gaza.

Michael Lee's very one sided political activism (showing no real sign of recognising Israeli crimes or Palestinian suffering) has placed him squarely in the category of those who wrongly conflate Israel with "Jewish people", though he might well know better. I say the conflation of Jewish people and Israel is a double racism where (1) Palestinians are denied both advocacy and resistance while (2) all Jewish people are branded as accomplices to the crimes of the Israeli regime. This confusion seems to reinforce the wilful blindness he shows towards the question of Palestine.

The result of this ludicrous definition of antisemitism (as including criticism of Israeli crimes) is to raise a shield for the vicious colonial regime in occupied Palestine. Michael Lee joined the ranks of what UN rapporteur Francesca Albanese labels the "morally corrupted, deeply racist and politically weaponised ... fight against antisemitism", where Jewish and Israeli sensibilities are considered more important than Palestinian lives.

He sneered at students who go to school to "proclaim, rather than to learn" and to university students who show a "sense of self-righteousness and ... willingness to spout slogans". He went on, sneering at the "ahistorical and ideologically driven notions of so-called settler colonialism ... which diminishes the western tradition". Judge Lee's contempt for the indigenous people of Palestine extends, it seems, to the indigenous people of this country.

(Australian Jewish News, 28 November 2024, 'People respond to leadership', online: <https://www.australianjewishnews.com/people-respond-to-leadership/>)

### **What is expected of a judge of law?**

Because of Michael Lee's open, partisan and bigoted advocacy of the Israeli cause I say (1) he should have declared his personal interest and declined to sit, or at least should have informed the parties and allowed us an opportunity to object to him sitting in NTEU vs USyd, a case involving "intellectual freedom" where a key contention was criticism of the Israeli regime and (2) for these same reasons he should not be a judge of law.



He pegged his partisan colours to the mast in a way that we might expect of a reactionary politician, but not of a judge of law, from whom we expect impartiality, a judicious sense without racial or tribal bigotry but rather commitment to high principle, including recognition of the relevant processes of international law.


If people knew of Michael Lee's deep and racist prejudices, entire groups would be afraid to appear before him: others like me who are attacked by the Israeli lobby, Arab and Muslim people, indigenous people, and how could those who have care of children ignore his insensitivity to the ongoing infanticide in Gaza?

In NTEU vs USyd, Justice Michael Lee had to find a way around the earlier full bench decision in which Judges Jagot and Rangiah ruled, "offence and insensitivity cannot be relevant criteria". Yet he reached for the option of "highest standards" without indication of any specific criteria. As USyd managers had run the "offensive" argument from the beginning, it is likely that he used "highest standards" as an alternative hook for the same complaint. His strong advocacy of the Israeli cause can be seen as the most likely reason why his comments were less favourable to me than those of five other federal Court judges on this case, including his fellow judge on the second full bench panel, Justice Geoffrey Kennett.

I ask that you take action on this matter of extreme bias, which discredits the Federal Court of Australia.

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And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made – and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: on BROADWAY, SYDNEY - 01.05.2025  
[place] [date]

[signature of declarant] 

in the presence of an authorised witness, who states:

I, CLARE DOGGETT, a J.P. 151465.  
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [\* please cross out any text that does not apply]

\*I saw the face of the person ~~OR \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~

\*I have known the person for at least 12 months ~~OR \*I have confirmed the person's identity using an identification document and the document I relied on was~~ NSW DRIVER LICENCE  
[describe identification document relied on]

 J.P.  
[signature of authorised witness] [date] 01.05.2025

